

ORIGINAL

FORMAL COMPLAINT FORM
PUBLIC SERVICE COMMISSION
Heber M. Wells State Office Building
160 East 300 South, Fourth Floor
P.O. Box 45585
Salt Lake City, Utah 84114

DEC 17 P 2:49

RECEIVED

1. **Name of Complainant:** Deborah L. Hendricks

Address: Mailing address: 6905 South 1300 East #245
Midvale, Utah 84047

Residential address: 2375 South 1480 West
West Valley City, Utah 84119

Telephone Number: Home/Cell: (801) 989-9789
Work: (801) 483-6763

If represented by counsel, list:

Name: N/A. Complainant is *Pro Se*

Address: _____

Telephone No.: _____

2. **The utility being complained against is:** Questar Gas

3. **What did the utility do which you (the Complainant) think is illegal, unjust or improper? Include exact dates, times, locations and persons involved as closely as you can.**

On Monday, November 10, 2014, I paid the balance owed on my Questar account (Account No. 2691678781) in the amount of \$39.27, bringing the balance current. On or about that same day, I contacted Questar customer service and requested to be set up on budget billing. I don't remember the name of the agent I spoke with. However, from that conversation, it was determined that my monthly billing rate would be \$62.00 per month. The representative I spoke with advised to watch for the billing as it would be showing on my account in approximately 1 week.

On November 19, 2014, I looked at my account online and found that on November 13, 2014, a transfer from one account to another had occurred in the amount of \$607.35. My account also showed an interest accrual of \$6.07. I was very surprised to see this, as I have been current on my Questar account for several years.

On Thursday, November 20, 2014, I spoke with Questar customer service representative, Cassie (ID #08982) and inquired about the past due amount on my account. Cassie informed me that this was a billing from 2003 – 2004. She did not provide the service address, nor did she make inquiries to determine that this past due billing belonged to me. She asked me if I lived in Salt Lake in 2003 – 2004 and I advised her that I have lived in Salt Lake at several different addresses since 1986. I advised Cassie I was unaware of any past due billing on my account and asked her why Questar waited so long to contact me about this amount if it was mine. Cassie did not respond. I then advised Cassie that I believe the past due amount was uncollectible because the past due amount was over 10 ½ years old and past the statute of limitations under Utah statute. Cassie informed me that “Questar is exempt from that statute”. I asked Cassie what state statute or administrative ruling provided for that exemption. Cassie advised me she did not have that information and suggested that I contact Questar’s legal department. I then stated to Cassie that the information she provided was provided to her by a Questar supervisor who provided no documentation to backup her statements and thus, Cassie was providing this information to me based on what her supervisor stated. Cassie confirmed that this was true. Cassie then tried to guide me into setting up a payment arrangement for the past due amount. I was taken off guard and told Cassie that I had no money to pay anything that day and that I would call back, but that in the meantime, I was going to look into the matter further.

I contacted several attorneys whose practice is in the area of debt resolution. Each of them advised me that there was no statute that exempted Questar from the Utah state statute of limitation relating to collection of past due amounts. Specifically, UCA Section 78B-2-307 establishes that the statute of limitation on an open account is 4 years. Assuming *arguendo* that this past due balance is mine, Questar has had ample time to notify me of this past due balance and take steps to collect it. My personal contact information has been on record with Questar for more than 2 decades! Again, Questar has not provided any information about this past due account and therefore, I have no ability to confirm or deny the amount Questar says I owe. However, it is irrelevant whether the account is mine or not. The past due amount is from 2003 – 2004 . . . well past Utah’s statute of limitations on debt.

On December 1, 2014, I again called Questar’s customer service line and spoke with Rachel (ID #0867). I obtained information from her as to who I spoke with on November 20th and obtained Cassie’s representative ID number. I then advised Rachel that Cassie informed me that Questar was exempt from Utah statute relating to debt collection. Rachel confirmed that to her knowledge this was true and stated that it was because the bill was for utilities. I asked Rachel for the statute that provides that. Rachel placed me on hold for several minutes and then came back and informed me that she spoke with her supervisor. She stated that her supervisor did not provide a specific statute but did state that “it must be paid”. Rachel stated to me that the statute of limitations did not pertain to past due amounts that it could remain on my account indefinitely. I advised Rachel that Questar could elect to keep the balance on my account indefinitely, but as far as the law was concerned, this past due amount is uncollectible. I advised Rachel that I would not be paying this past due amount because I had no proof that it was mine and because the Utah statute of limitations relating to debt makes it uncollectible. I further advised Rachel that I wished her to note in my account records that I am disputing this past due amount and that I am filing a complaint with the Utah Public Services Commission. I also advised Rachel that I

would continue to pay the current amount owed on my account while this matter was being handled by the Public Services Commission.

I filed an informal complaint against Questar on December 1, 2014. On December 9, 2014, I received Questar's response from Elia Lopez, Questar Gas Consumer Affairs dated December 4, 2014 at my residential address (**Exhibit A** attached hereto).

In her letter, Ms. Lopez alleged that I had service in my name at the address of 7516 South 2160 East, Cottonwood, Utah and described Questar's attempts to contact me. Ms. Lopez also attached an Excel spreadsheet prepared by her with my name on it, the service address and a list of charges for that address. However, the information provided by Ms. Lopez was simply a summary of charges accrued at a residential address. It did not cite the source of her information, nor did it provide adequate proof that I resided at that address. I checked my tax returns for 2003 and 2004 and neither of those returns show 7516 South 2160 East as my residential address. Because formal complaints are made available to the public online and due to the confidential nature of those tax returns, I am not providing them as exhibits at this time, but will provide copies at the formal hearing.

In the fourth paragraph of Ms. Lopez' letter to me, she attempts to advise me on the provisions of the FDCPA and states, "Utah follows the Fair Debt Collection Practices Act (FDCPA) which does not extinguish the debt. It states we can still collect but we can't sue in court." Ms. Lopez then continues in her letter to advise me that I have ten (10) days from the date of her letter (December 14, 2014) to participate in an opportunity to make payment to Questar in full or to enter into a Deferred Payment Agreement (DPA). She then cited the Utah Natural Gas Tariff advising that I would need to pay a reconnection fee in addition to the past due balance in order to have discontinued gas service restored.

On December 10, 2014, I responded to Ms. Lopez' response via certified mail (**Exhibit B** attached). I advised Ms. Lopez that she had not adequately proven that the past due balance she claimed to belong to me was in fact mine. Her Excel spreadsheet is not sufficient evidence to prove that I had a contractual obligation to pay for services at that address or that I even resided at that address. I also asked Ms. Lopez to provide the specific statute from the United States Code that supported her statement advising me that the FDCPA does not extinguish the debt and that it states that we (Questar) can still collect but not sue in court.

I advised Ms. Lopez that her statement was factually wrong and provided an explanation of the purpose of the FDCPA. I pointed out to her that the FDCPA was not at issue in this dispute but that the statements provided by Questar customer service representatives stating that Questar was "exempt" from Utah statute of limitations with respect to debt collection. I then explained specifically why Utah law was the controlling law in this issue and provided specific citations from the FDCPA supporting my argument that Utah law was controlling in this dispute and citations from Utah statute showing that the debt at issue was past Utah statute of limitations for the collection of debt.

I responded to Ms. Lopez' statement with respect to the shutoff of services for my current address and advised that her that I deemed the information she provided to be an implied threat

by Questar to shut off services if I did not enter into a DPA and advised her that her written statement was construed as threatening, intimidating and harassing and advised her that service for my current residence was paid in full and on time and that, while the past due amount was in dispute, my service would not be shut off.

I concluded my response to Ms. Lopez by advising her that her resolution to this disputed matter was rejected and advised her that Questar had not adequately proven that the debt in dispute was mine, that Utah statute of limitations with respect to the collection was debt prohibited collection of the debt, and further advised her that I was not willing to waive my right to the consumer protections afforded to me under Utah law. My counteroffer to Ms. Lopez was that Questar should should comply with Utah law and declare the disputed debt uncollectible.

4. Why do you (the Complainant) think these activities are illegal, unjust or improper?

There are two matters at issue here. The first issue pertains to validation of the debt. Questar alleges that this debt arises out of debt incurred in 2003 – 2004 for gas service at the address of 7516 South 2160 East, Cottonwood Utah. Ms. Elia Lopez from Questar Consumer Affairs provided an Excel spreadsheet prepared by her showing charges for gas service at that address, but failed to provide evidence that the charges are my obligation to pay. She did not provide a copy of an agreement showing that I agreed to these charges, nor did she show that I ever lived at that address. My federal and state tax returns for 2003 – 2004 show that I resided at two different addresses – neither of which are the address for the service at 7516 South 2160 East, Cottonwood, Utah. Because this formal complaint and its exhibits are made available to the public, I will provide redacted copies of my tax returns for 2003 – 2004 at the hearing.

Consumers Have the Right to be Provided with Validation of a Debt.

As a consumer, I have the right to be provided with proof that a debt exists. Such proof should be in the form of a written agreement or other proof that validates the debt and proves that it is mine. Questar has failed to provide that proof and thus ownership of the debt is disputed.

Questar is Not Exempt from Utah Code §§ 78-B-307 and 309.

The second matter at issue has significant merit. Questar customer service representatives specifically stated on two different occasions that Questar is exempt from the statute of limitations regarding debt collection under Utah Code §§ 78-B-307 and 309. Questar relies on this assumption and, in Ms. Elia Lopez' letter of December 4, 2014 tries to reinforce it by referring to the FDCPA and stating that, "Utah follows the Fair Debt Collection Practices Act (FDCPA) which does not extinguish debt. It states we can still collect but we can't sue in court". However, Ms. Lopez did not provide a specific citation supporting her statement.

Ms. Lopez' statement is partially true. The FDCPA does not extinguish debt. The FDCPA was not enacted to extinguish debt. It was enacted to protect consumers against debt collection abuses. A full copy of 15 U.S.C § 1692 is attached hereto as **(Exhibit C)**. Specifically, this Federal statute is aimed at the collection practices of collection agencies, not original creditors. Questar gas is an original creditor whose business purpose is to provide natural gas service to

consumers. Although it may have a collection department, collection activity is ancillary to the main business purposes of Questar. Therefore, the FDCPA is not applicable in this situation and is not controlling law, the next controlling law is provided under Utah state law. However, for argument's sake, if the FDCPA did apply in this situation, Utah law would still be the controlling law.

As pointed out in my response letter for December 10, 2014, 15 U.S.C. § 1692n. specifically states:

"This subchapter does not annul, alter, or affect, or exempt any person subject to the provisions of this subchapter with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this subchapter, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection provided by this subchapter." (*Emphasis added*)

Not only does subchapter n. specifically state that Questar is not exempt from the laws of the state of Utah, it provides that the greater protections to consumers under Utah law are not inconsistent with the FDCPA.

Utah law provides a statute of limitation under §§ 78-B-2-307 and 309 of the Utah Code (2010) with respect to the collection of debt. The FDCPA does not. Therefore, because Utah law provides a greater protection to the consumer than that provided under subchapter n. of the FDCPA, Utah law is the controlling law

Utah Code §78-B-307 provides in part "[a]n action may be brought within four years . . . upon a contract, obligation, or liability not founded upon an instrument in writing . . .". Section 78B-2-309 provides "[a]n action may be brought within six years . . . upon any contract, obligation, or liability founded upon an instrument in writing . . .".

Pursuant to the foregoing statutes, the debt Questar alleges belongs to me is uncollectible because the debt arises from 2003 – 2004 – more than six years beyond Utah Code §78-B-307 and more than four years under Utah Code §78-B-309. Any attempt by Questar to collect on a debt that has not been proven belongs me and is prohibited from collection under Utah's statute of limitations would be a blatant violation of Utah law.

5. What Relief Does the Complainant Request?

The debt at issue here has not been proven to belong to me. My tax records provide evidence that I did not live at the service address in Cottonwood. In addition, the debt at issue is more than ten years old and well beyond Utah's Statute of Limitation regarding collection of debt. Most corporate entities are able to receive tax benefits (write-offs) for uncollectible debt. I would be surprised if Questar has not already availed itself of this tax benefit – which begs the question as to why it is trying to collect a debt for which it has already received a tax benefit. However, if it has not already received the benefit of writing off the debt as uncollectible, it should do so.

Questar has not proven this debt to be mine and has no standing under Utah Code §§ 78-B-2-307 and 309 to collect the debt.

In addition to determining that the debt in question is uncollectible, Questar should renew my standing as a good customer who has paid her bills on time for the past several years and allow me to enter into a budget payment plan as has been allowed in previous years. Given the conditions of this winter season, it would be an advantage to Questar do so.

6. Signature of Complainant: Deborah Hendricks

Date: December 17, 2014